



Department of Health
and Human Services

Maine People Living
Safe, Healthy and Productive Lives

John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

Department of Health and Human Services
Licensing and Regulatory Services
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DATE: May 19, 2010
TO: Interested Parties
FROM: Catherine Cobb, Director, Division of Licensing and Regulatory Services
SUBJECT: **Public Hearing: June 7, 2010 at 1 pm**
Proposed Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR
Chapter 122. Comment deadline: June 17, 2010.

Submit comments online! Go to:

<http://www.maine.gov/dhhs/dlrs/rulemaking/proposed.shtml>

You may submit comments online, via email, via fax, or via postal service.

On Monday, June 7, 2010 at 1 p.m., there will be a public hearing on the proposed *Rules Governing the Maine Medical Use of Marijuana Program*. The hearing will be held in the Health and Human Services Committee Room 209 of the Cross Office Building (next to the State House in Augusta). Written comments on the proposed rules will be accepted for a 10-day period after the hearing: until June 17, 2010 at 5 pm.

In November 2009, voters approved an initiated bill that changed Maine's medical use of marijuana laws. The initiated bill replaces the informal system that protected patients who grew and used marijuana for medical conditions. The Governor signed Public Law 2009, Chapter 631 (Emergency Preamble) on April 9, 2010, in which additional changes to the law were enacted by the 124th Legislature. These proposed rules implement the Maine Medical Use of Marijuana Program (MMMP) as established by these statutes. The proposed rules include the following operational provisions:

- Provisions to transition patients and caregivers to a registry identification card system for the continued medical use of marijuana under the new law.
- Criteria for selecting 8 dispensaries in the first year.
- The process to secure department-issued registry identification cards for patients, primary caregivers, staff of hospice providers and nursing facilities and employees, board members and principal officers of dispensaries.
- Conditions for which the medical use of marijuana is authorized.
- Authorized conduct for participating in the MMMP.
- Dispensary requirements.
- Program oversight.
- Appeal rights.

The proposed rules are available on line at:

<http://www.maine.gov/dhhs/dlrs/rulemaking/proposed.shtml>

To request a paper copy of the rules, please call (207) 287-9300 or 1-800-791-4080.

Notice of Agency Rule-making Proposal

AGENCY: **Division of Licensing and Regulatory Services, Department of Health and Human Services**

CHAPTER NUMBER AND TITLE:

(NEW) 10-144 C.M.R. Ch 122, Rules Governing the Maine Medical Use of Marijuana Program

PROPOSED RULE NUMBER *(leave blank; assigned by Secretary of State)*:

CONTACT PERSON FOR THIS FILING:

Catherine M. Cobb, Director, Division of Licensing and Regulatory Services

41 Anthony Ave, 11 State House Station, Augusta, Maine 04333

(207) 287-2979 (800) 791-4080 fax: (207) 287-5807 catherine.cobb@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): **same**

PUBLIC HEARING (if any): **Monday, June 7, 2010, at 1:00 pm, in the Health and Human Services Committee Room 209 of the Cross Office Building, next to the State House, in Augusta.**

COMMENT DEADLINE: **June 17, 2010 at 5 pm.**

BRIEF *SUMMARY: In November 2009, voters approved an initiated bill that changed Maine's medical use of marijuana laws. The initiated bill replaces the informal system that protected patients who grew and used marijuana for medical conditions. The Governor signed Public Law 2009, Chapter 631 (Emergency Preamble) on April 9, 2010, in which additional changes to the law were enacted by the 124th Legislature. These proposed rules implement the Maine Medical Use of Marijuana Program (MMMP) and include the following: (1) provisions to transition patients and caregivers to a registry identification card system for the continued medical use of marijuana under the new law; (2) criteria for selecting 8 dispensaries in the first year; (3) the process to secure department-issued registry identification cards for patients, primary caregivers, staff of hospice providers and nursing facilities and employees, board members and principal officers of dispensaries; (4) conditions for which the medical use of marijuana is authorized; (5) dispensary requirements; and (6) program oversight. The proposed rule is posted at <http://www.maine.gov/dhhs/dlrs/rulemaking/proposed.shtml> Call (207) 287-5005 to have a paper copy of the rule mailed to you.

Economic impact. These rules will not impose any administrative cost on any existing small businesses. These rules will apply to dispensaries to be established pursuant to a certificate of registration. The fees within these rules are established in statute. These rules will not impose any cost on municipalities or counties.

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S.A. Chapter 558-C, Maine Medical Marijuana Act; Public Law 2009, Chapter 631; 22 M.R.S.A. § 42, and 22-A M.R.S.A. §205.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): **same**

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Marina.thibEAU@maine.gov

** Check one of the following two boxes.*

☐ *The above summary is for use in both the newspaper and website notices.*

☒ *The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.*

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____

(Catherine M. Cobb, Director, Division of Licensing and Regulatory Services)

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
014	10A	6760	Z11801		4946	

Notice of Agency Rule-making Proposal

DETAILED BASIS STATEMENT / SUMMARY:

In November 2009, voters approved an initiated bill that changed Maine's medical use of marijuana laws. The initiated bill replaces the informal system that protected patients who grew and used marijuana for medical conditions. The Governor signed Public Law 2009, Chapter 631 (Emergency Preamble) on April 9, 2010, in which additional changes to the law were approved by the 124th Legislature. These proposed rules implement the Maine Medical Use of Marijuana Program (MMMP) as established by these statutes.

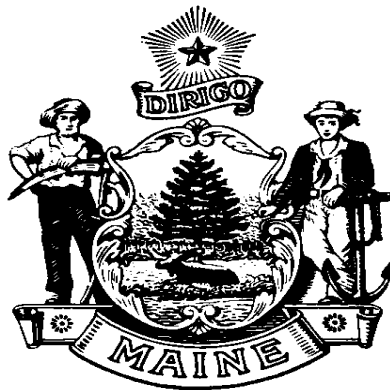
ANALYSIS AND EXPECTED OPERATION OF THE RULE: These proposed rules establish the Maine Medical Use of Marijuana Program and include the following operational provisions:

- Provisions to transition patients and caregivers to a registry identification card system for the continued medical use of marijuana under the new law.
- Criteria for selecting 8 dispensaries in the first year.
- The process to secure department-issued registry identification cards for patients, primary caregivers, staff of hospice providers and nursing facilities and employees, board members and principal officers of dispensaries.
- Conditions for which the medical use of marijuana is authorized.
- Authorized conduct for participating in the MMMP.
- Dispensary requirements.
- Program oversight.
- Appeal rights.

Rules Governing the Maine Medical Use of Marijuana Program

10-144 CMR Chapter 122

Effective Date _____



**Maine Department of Health and Human Services
Division of Licensing and Regulatory Services**

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Purpose. These rules implement the Maine Medical Use of Marijuana Program (MMMP). The rules include definitions of terms, and identification of debilitating medical conditions for which the medical use of marijuana is authorized. They also include procedures for issuing a certificate of registration to a dispensary, and registry identification cards to qualified patients, primary caregivers, staff of hospice providers and nursing facilities, and qualified principal officers, board members and employees of dispensaries. The MMMP rules also govern confidentiality, payments of fees, and enforcement of these rules.

SECTION 1. DEFINITIONS. As used in these rules, unless the context otherwise indicates, the following terms have the following meanings.

- 1.1 Act.** Act means the Maine Medical Use of Marijuana Act.
- 1.2 Adulterated.** For the purposes of these rules, adulterated means made impure or inferior by adding extraneous ingredients. Goods that are prepared in food establishments that are licensed facilities pursuant to 22 Maine Revised Statutes section 2167 and that contain marijuana for medical use by a registered patient are not considered to be adulterated.
- 1.3 Advisory board.** Advisory board means a board established, chaired, and staffed by the commissioner to review and recommend additions to the list of debilitating medical conditions in Section 3.1 of these rules.
- 1.4 Applicant.** Applicant means any person applying to participate in the Maine Medical Use of Marijuana Program, hereinafter MMMP.
- 1.5 Cardholder.** Cardholder means a registered patient, a registered primary caregiver or a principal officer, board member, or employee of a registered dispensary who has been issued and possesses a valid registry identification card.
- 1.6 Debilitating medical condition.** Debilitating medical condition means a chronic or debilitating disease, medical condition or symptom listed in these rules that qualifies for the medical use of marijuana by a registered patient.
- 1.7 Deficiency.** Deficiency means a violation of or failure to comply with a provision of these rules.
- 1.8 Department.** Department means the Department of Health and Human Services (DHHS).
- 1.9 Disqualifying drug offense.** Disqualifying drug offense means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more. It does not include:

- 1.9.1** An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or
- 1.9.2** An offense that consisted of conduct that would have been permitted under these rules.
- 1.10 Division.** Division means the Division of Licensing and Regulatory Services (DLRS).
- 1.11 Enclosed, locked facility.** Enclosed, locked facility means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.
- 1.12 Final agency action.** Final agency action means a decision by DHHS which affects the legal rights, duties or privileges of specific persons, which is dispositive of all issues, legal and factual, and for which no further recourse, appeal or review is provided within DHHS. See 5 M.R.S.A. §8002 (4).
- 1.13 Food establishment.** For the purposes of these rules, food establishment includes a registered primary caregiver assisting 3, 4 or 5 registered patients, and a registered dispensary that prepare goods containing marijuana for medical use by a registered patient. See 22 M.R.S.A. §2152 (4-A).
- 1.14 Incidental amount of marijuana.** Incidental amount of marijuana means marijuana seeds, stalks and roots that are not included when calculating the allowable amounts of marijuana specified in these rules.
- 1.15 Marijuana.** Marijuana means the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not.
- 1.15.1** “Marijuana” does not include the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation from the resin, including hashish.
- 1.15.2** “Marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.
- 1.16 Marijuana: incidental amount.** See Section 1.14 of these rules.
- 1.17 Marijuana plant.** Marijuana plant means a harvestable female marijuana plant that is flowering and is greater than twelve inches in height and twelve inches in diameter.
- 1.18 Marijuana: prepared.** See Section 1.28 of these rules.

- 1.19 Marijuana: topical treatment.** See Section 1.35 of these rules.
- 1.20 Marijuana: usable amount for medical use.** See Section 1.36 of these rules.
- 1.21 Medical use.** Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's debilitating medical condition or symptoms associated with the registered patient's debilitating medical condition.
- 1.22 Onsite assessment.** Onsite assessment means a visit by an employee of the department for the purpose of ensuring compliance with the requirements of these rules to any site where marijuana is grown by a registered primary caregiver who has been designated to cultivate marijuana for 3, 4, or 5 registered patients at one time.
- 1.23 Organic.** Organic means certified by an accredited organic certifier in the State of Maine as being in compliance with the United States Department of Agriculture certification requirements applying to organic products.
- 1.24 Paraphernalia.** For the purpose of these rules, paraphernalia is limited to equipment, products and materials that are ordinarily used in planting, propagating, cultivating, growing, harvesting, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body. It includes:
- 1.24.1** Kits used or intended for use in the planting, propagating, cultivating, growing or harvesting of any species of marijuana;
 - 1.24.2** Isomerization devices used or intended for use in increasing the potency of any species of the marijuana plant;
 - 1.24.3** Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of marijuana;
 - 1.24.4** Scales and balances used or intended for use in weighing or measuring marijuana;
 - 1.24.5** Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
 - 1.24.6** Envelopes and other containers used or intended for use in packaging small quantities of marijuana for medical use;
 - 1.24.7** Containers and other objects used or intended for use in storing medical marijuana; and

1.24.8 Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana into the human body, including but not limited to:

- 1.24.8.1** Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
- 1.24.8.2** Water pipes;
- 1.24.8.3** Carburetion tubes and devices;
- 1.24.8.4** Smoking and carburetion masks;
- 1.24.8.5** Roach clips, meaning objects used to hold burning marijuana cigarettes that have become too small or too short to be held in the hand;
- 1.24.8.6** Chamber pipes;
- 1.24.8.7** Carburetor pipes;
- 1.24.8.8** Electric pipes;
- 1.24.8.9** Air-driven pipes;
- 1.24.8.10** Chillums;
- 1.24.8.11** Bongs designed for marijuana and not for cocaine; or
- 1.24.8.12** Ice pipes or chillers.

1.25 Patient. For the purposes of these rules, patient means a person whose physician has provided a written certification to the department for the patient's medical use of marijuana.

1.26 Physician. Physician means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to 32 M.R.S.A. Chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant 32 M.R.S.A. Chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

1.27 Physician's written certification. Physician's written certification means a document signed by a physician stating that in the physician's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to

treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

- 1.28 Prepared marijuana.** Prepared marijuana means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, and other preparations. It does not include the seeds, stalks and roots of the marijuana or other ingredients in goods prepared for human consumption or use.
- 1.29 Registered dispensary.** Registered dispensary or dispensary means a not-for-profit entity registered pursuant to Section 6 of these rules that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients.
- 1.30 Registered patient.** Registered patient means a patient who has a registry identification card issued by the department pursuant to Section 4 of these rules.
- 1.31 Registered primary caregiver.** Registered primary caregiver or primary caregiver means a person, a hospice provider licensed under Title 22 M.R.S.A. chapter 1681 or a nursing facility licensed under Title 22 M.R.S.A. chapter 405 that provides care for a registered patient and that has been named by the registered patient as a primary caregiver to assist with a registered patient's medical use of marijuana. A person who is a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.
- 1.32 Registry identification card.** Registry identification card means a document issued by the department that identifies a person as a registered patient, registered primary caregiver, or a principal officer, board member, or employee of a registered dispensary.
- 1.33 Seedling.** Seedling means a marijuana plant that has no flowers, is less than 12 inches in height, and is less than twelve (12) inches in diameter.
- 1.34 Tincture.** For the purposes of these rules, tincture means a mixture created from a concentrated extract of marijuana.
- 1.35 Topical treatment.** Topical treatment means a mixture or extract of marijuana made into a balm, lotion, ointment or rubbing alcohol solution, that is applied transcutaneously.
- 1.36 Usable amount of marijuana for medical use.** Usable amount of marijuana for medical use means 2 ½ ounces or less of prepared marijuana (Section 1.28) and a total of 6 marijuana plants (1.17).

- 1.37 Visiting qualifying patient.** Visiting qualifying patient means a patient with a debilitating medical condition who is not a resident of Maine or who has been a resident of Maine less than 30 days who is qualified by another jurisdiction for the medical use of marijuana.

PROPOSED

Section 2: SCOPE

2.1 Protections: legal medical use of marijuana. The protections and requirements of these rules are for conduct that is expressly authorized by these rules for the legal medical use of marijuana by registered patients, and for those who assist registered patients as registered primary caregivers, staff of hospice providers and nursing facilities that are named as primary caregivers, and principal officers, board members and employees of registered dispensaries.

2.1.1 Violation of other laws. These protections do not extend to violations of other laws of the state of Maine.

2.1.2 Authorized conduct by anyone providing paraphernalia. A person may provide a registered patient or a registered primary caregiver with marijuana paraphernalia for purposes of the registered patient's medical use of marijuana in accordance with these rules and be in the presence or vicinity of the medical use of marijuana as allowed under these rules.

2.1.3 Authorized conduct by a visiting qualifying patient. A visiting qualifying patient from another jurisdiction who possesses a valid registry identification card or its equivalent from that jurisdiction may for 30 calendar days after entering the State engage in conduct authorized for a registered patient without having to obtain a registry identification card issued by the department except that the visiting qualifying patient may not obtain in Maine marijuana for medical use based on a registry identification card from another jurisdiction.

2.1.4 Possession of or application for registry identification card is not evidence of unlawful conduct or a basis for a search. Possession of a registry identification card by a cardholder, or the act of applying for such a card, is not evidence of unlawful conduct and may not be used to support the search of that person or that person's property.

2.1.4.1 The possession of or application for a registry identification card does not prevent the issuance of a warrant if probable cause exists on other grounds.

2.1.5 Other protections.

2.1.5.1 Rights of persons or entities acting pursuant to these rules. A person whose conduct is authorized under these rules may not be denied any right or privilege or be subjected to any penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of marijuana authorized under these rules.

2.1.5.2 School, employer or landlord may not discriminate. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a registered patient or a registered primary caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding.

2.1.5.2.1 Section 2.1.5.2 of these rules does not prohibit a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises.

2.1.5.2.2 A landlord may prohibit the smoking of marijuana for medical purposes on the landlord's premises if the landlord prohibits all smoking on the premises and posts notice to that effect on the premises.

2.1.5.3 Person may not be denied parental rights and responsibilities or contact with a minor child. A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with these rules, unless the person's conduct is contrary to the best interests of the minor child as set out in 19-A Maine Revised Statutes, section 1653, subsection 3.

2.2 Prohibitions. These rules prohibit any person from:

2.2.1 Undertaking any task under the influence of marijuana when doing so would constitute negligence or professional malpractice or would otherwise violate any professional standard;

2.2.2 Possessing marijuana or otherwise engaging in the medical use of marijuana:

2.2.2.1 In a school bus;

2.2.2.2 On the grounds of any preschool or primary or secondary school; or

2.2.2.3 In any correctional facility.

2.2.3 Smoking marijuana:

2.2.3.1 On any form of public transportation; or

2.2.3.2 In any public place.

2.2.4 Operating, navigating, or be in actual physical control of any motor vehicle, aircraft, motorboat, snowmobile, or all-terrain vehicle while under the influence of marijuana; or

2.2.5 Using marijuana if that person does not have a debilitating medical condition.

2.3 Construction. These rules may not be construed to require:

2.3.1 A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

2.3.2 An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.

2.4 Laboratory testing of marijuana. The department may obtain, possess and perform laboratory testing on marijuana from registered patients, registered primary caregivers and registered dispensaries.

2.5 Disposal of unused marijuana. Unused, unadulterated marijuana in the possession of the registered patient, registered primary caregiver, a hospice provider or a nursing facility named as a primary caregiver, or a registered dispensary that is no longer needed for the registered patient's medical use may be disposed of by:

2.5.1 Giving it to a registered patient; or

2.5.2 Giving it to a registered primary caregiver; or

2.5.3 Giving it to a registered dispensary.

2.5.4 Unused marijuana may also be disposed of by transporting the unused portion to a state or local law enforcement office. Presentation of a valid registry identification card and a Maine driver's license or other state-issued photo identification may be required.

2.6 Annual report. The department shall submit to the Legislature an annual report by April 1st each year that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

2.6.1 The number of applications and renewals filed for registry identification cards;

2.6.2 The number of registered patients and primary caregivers approved in each county;

2.6.3 The nature of the debilitating medical conditions of the registered patients;

- 2.6.4** The number of registry identification cards revoked;
- 2.6.5** The number of physicians providing written certifications for registered patients;
- 2.6.6** The number of registered dispensaries; and
- 2.6.7** The number of principal officers, board members and employees of registered dispensaries.

PROPOSED

Section 3. DEBILITATING MEDICAL CONDITIONS

3.1 List of debilitating medical conditions. Patients with at least one of the following debilitating medical conditions may submit an application for a registry identification card for the medical use of marijuana:

3.1.1 Disease or medical condition or its treatment.

3.1.1.1 Cancer;

3.1.1.2 Glaucoma;

3.1.1.3 Positive status for human immunodeficiency virus (HIV);

3.1.1.4 Acquired immune deficiency syndrome;

3.1.1.5 Hepatitis C;

3.1.1.6 Amyotrophic lateral sclerosis;

3.1.1.7 Crohn's disease;

3.1.1.8 Agitation of Alzheimer's disease; or

3.1.1.9 Nail-patella syndrome.

3.1.2 Intractable pain. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain. For the purposes of these rules, intractable pain means pain that has not responded to ordinary medical or surgical measures for more than 6 months.

3.1.3 Symptoms. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following symptoms:

3.1.3.1 Cachexia or wasting syndrome;

3.1.3.2 Severe nausea;

3.1.3.3 Seizures including but not limited to those characteristic of epilepsy;
or

3.1.3.4 Severe and persistent muscle spasms including but not limited to those characteristic of multiple sclerosis; or

3.1.4 Other. Any other medical condition or its treatment that is approved by the commissioner, pursuant to Section 3.2 of these rules.

3.2 Adding debilitating medical conditions: Advisory Board. The commissioner shall establish, chair and staff an advisory board.

3.2.1 Membership. The advisory board members shall include:

3.2.1.1 Health care practitioners. The advisory board shall consist of at least 11 health care practitioners representing various fields of practice, including but not limit to neurology, gastroenterology, pain management, medical oncology, psychiatry, infectious disease, hospice medicine, family medicine, pediatrics, treatment of addiction and gynecology. The practitioners must be certified by a national board in their areas of specialty and knowledgeable about the medical use of marijuana.

3.2.1.1.1 Chosen from list: board appointment. The health care practitioner advisory board members must be chosen for appointment by the commissioner to serve for a term of up to 3 years from a list proposed by the Maine Medical Association and the Maine Osteopathic Association or their successor organizations. For the first year of operation, the members' terms shall be staggered.

3.2.1.2 Members of the public. The advisory board must also include at least 2 members of the public, at least one of whom is a registered patient, chosen for appointment by the commissioner to serve for a term of up to 3 years. For the first year of operation, the members' terms shall be staggered.

3.2.2 Duties. The advisory board shall:

3.2.2.1 Accept, review and evaluate petitions to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of marijuana.

3.2.2.2 If the petition contains information that is confidential pursuant to Section 9 of these rules, the advisory board must protect the confidentiality of that information.

3.2.2.3 Convene at least once per year to conduct public hearings regarding adding medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of marijuana.

- 3.2.2.4** Review and recommend to the commissioner for approval additional debilitation medical conditions that would benefit from the medical use of marijuana.
- 3.2.2.5** Recommend quantities of marijuana that are necessary to constitute an adequate supply for registered patients, registered primary caregivers and registered dispensaries.

PROPOSED

Section 4. REGISTERED PATIENT

- 4.1 Application for registry identification card.** A patient may apply for a registry identification card for the lawful medical use of marijuana by submitting a completed department-approved application form with required documentation and the application fee. Subject to the provisions in Sections 4.2, 4.3 or 4.4 of these rules, the application shall include, at a minimum, the following information:
- 4.1.1** Name, address and date of birth of the patient applicant.
 - 4.1.2** Name, address and telephone number of the patient applicant's physician;
 - 4.1.3** Name, address and date of birth of the primary caregiver, if any, named by the patient applicant.
 - 4.1.4** Name of the primary caregiver or dispensary, in any, designated by the patient applicant to cultivate marijuana for the patient's medical use. Only the registered patient, or the primary caregiver, or a dispensary is allowed to cultivate marijuana for a patient's medical use.
 - 4.1.5** If the patient applicant elects to cultivate marijuana for his or her own medical use, the patient applicant must indicate that choice on the application.
 - 4.1.6** A department-approved release form signed by the patient applicant, the patient's guardian or the patient's durable health care power of attorney authorizing the department to obtain further information, if needed, from the physician who submits a written certification on behalf of the patient applicant.
 - 4.1.7** A copy of the patient applicant's Maine driver's license or other state-issued photo identification.
- 4.2 Homeless patient-applicant.** A homeless patient-applicant must comply with the application provisions in Section 4.1 of the rules, except no patient-applicant address is required. Instead, a homeless patient-applicant must submit the address of the patient's designated registered primary caregiver.
- 4.2.1** Notwithstanding other provisions of these rules, a homeless patient-applicant must designate a registered primary caregiver or a registered dispensary to cultivate marijuana on behalf of the homeless patient-applicant.
 - 4.2.2** All other provisions of these rules must be met.
- 4.3 Minor patient-applicant.** In addition to compliance with the application provisions in Section 4.1 of these rules, an application for a patient who is under 18 years of age must comply with the following:

- 4.3.1 Physician's explanation.** The qualifying minor patient's physician must demonstrate that the physician explained the potential risks and benefits of the medical use of marijuana to the qualifying minor patient and to a parent, guardian or person having legal custody of the qualifying patient;
- 4.3.2 Consent form.** The department-approved consent form must be signed by the minor's parent, legal guardian or person having legal custody consenting to:
- 4.3.2.1** Allow the qualifying minor patient's medical use of marijuana;
 - 4.3.2.2** Serve as one of the qualifying minor patient's registered primary caregivers;
 - 4.3.2.3** Control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the qualifying minor patient; and
 - 4.3.2.4** Allow the commissioner to refer the minor patient to be examined by or their medical records reviewed by a pediatrician and psychiatrist.
 - 4.3.2.5** Comply with all other applicable provisions of these rules.
- 4.3.3 Commissioner's approval.** Except with regard to a qualifying minor patient who is eligible for hospice care, the commissioner or the commissioner's designee shall approve an application for a minor's medical use of marijuana.
- 4.3.3.1 Pediatrician and psychiatrist recommendations.** Prior to approving an application for a minor's medical use of marijuana, the commissioner or the commissioner's designee must select a pediatrician and a psychiatrist to review the medical file of or examine the qualifying minor patient and submit their written confirmation that they have reviewed the medical file of or examined the qualifying minor patient and that in their professional opinions the qualifying minor patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the qualifying minor patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
- 4.3.3.1.1 Chosen from list.** The commissioner shall select a pediatrician and psychiatrist from the list referred to in Section 3.2.1.1.1 of these rules. The selected pediatrician and psychiatrist do not have to be members on the advisory board referred to in Section 3.2.
 - 4.3.3.2 Timely decision or deemed approved.** If the commissioner or

commissioner's designee fails to approve or disapprove a recommendation within 10 business days of receipt of the statements of the pediatrician and psychiatrist, the application is deemed approved.

- 4.3.4 A minor may have a second primary caregiver.** A minor patient's parent, legal guardian or the person who has legal custody of the minor must serve as the minor's primary caregiver. In addition, a registered patient under 18 years of age may have a second primary caregiver. The minor's second primary caregiver may be a person, a hospice provider or a nursing facility.
- 4.3.5 One may cultivate marijuana.** Only one of the primary caregivers described in Section 4.3.4 of these rules, may be designated to cultivate marijuana for the minor patient-applicant's medical use. Or a dispensary may be designated to cultivate marijuana for the minor patient-applicant.
- 4.4 Incapacitated adult patient-applicant.** In addition to compliance with the application provisions in Section 4.1 and the physician's written certification provisions in Section 4.5 of these rules, an application for an incapacitated adult patient's medical use of marijuana must contain the following information:
- 4.4.1** A copy of the legal documentation issued by the court which names the guardian; or a copy of the incapacitated adult patient-applicant's durable health care power of attorney.
- 4.4.2** The department-approved consent form signed by the legal guardian or the durable health care power of attorney consenting to:
- 4.4.2.1** Allow the incapacitated adult patient-applicant's medical use of marijuana:
 - 4.4.2.2** Serve as one of the incapacitated adult patient-applicant's registered primary caregivers; and
 - 4.4.2.3** Control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the incapacitated adult patient-applicant.
 - 4.4.2.4** Comply with all other provisions of these rules.
- 4.4.3 An incapacitated adult patient may have a second primary caregiver.** An incapacitated adult patient's legal guardian or durable health care power of attorney must serve as the incapacitated adult's primary caregiver. In addition, an incapacitated adult patient may have a second primary caregiver. The

incapacitated adult's second primary caregiver may be a person, a hospice provider or a nursing facility.

- 4.4.4 Only one may cultivate marijuana.** Only one of the primary caregivers described in Section 4.4.3 of these rules, may be designated to cultivate marijuana for the incapacitated adult patient-applicant's medical use. Or a dispensary may be designated to cultivate marijuana for the incapacitated adult patient-applicant.

PHYSICIAN'S WRITTEN CERTIFICATION

- 4.5 Physician's written certification.** The patient applicant's physician must submit directly to the department the signed department-approved physician certification form. The patient's application is not considered complete until the department receives all required information, including the physician's written certification.

- 4.5.1** The physician must follow 2-373 or 2-383, Code of Maine Rules (C.M.R.), Chapter 11, *Use Of Controlled Substances In Treatment Of Pain* when certifying a patient for the medical use of marijuana.

- 4.5.2** The physician's written certification must be made in the course of a bona fide physician-patient relationship as indicated by the existence of an evaluation, treatment plan, periodic review and documentation and other professional principles of treatment, as described in 2-373 or 2-383, Code of Maine Rules (C.M.R.), Chapter 11, *Use Of Controlled Substances In Treatment Of Pain* after the physician has completed a full assessment of the patient's medical history.

- 4.5.3** The physician must demonstrate that a bona fide relationship between the patient and physician exists.

- 4.5.4** The physician must agree to monitor the patient's on-going need for the medical use of marijuana.

- 4.5.5** The physician must agree to retain and maintain records that support the decision to recommend the medical use of marijuana.

- 4.5.6** The physician must specify the diagnosis of the debilitating medical condition for which the medical use of marijuana is recommended, including:

- 4.5.6.1** A description of the ordinary medical or surgical measures for intractable pain that the patient has not responded to for more than 6 months; or

4.5.6.2 A description of the symptoms resulting from a chronic or debilitating disease or medical condition or its treatment that satisfies the criteria in Section 3 of these rules.

4.5.6.3 A nonbinding estimate of the length of time that the medical use of marijuana is needed for the treatment of the debilitation medical condition.

4.6 Patient decision to change certifying physician. The patient must notify the department within 10 business days of the date the patient changes physician.

4.7 Authorized conduct by a physician. A physician may provide a written certification for the medical use of marijuana under these rules and, after having done so, may otherwise state that in the physician's professional opinion a qualifying patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition.

4.7.1 Nothing in these rules prevents a professional licensing board from sanctioning a physician for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

PATIENT'S AUTHORIZED CONDUCT

4.8 Authorized Conduct: Registered Patient. Subject to the provisions of Section 2.2 of these rules, a registered patient may:

4.8.1 Possess up to 2 ½ ounces of prepared marijuana and may also lawfully possess an incidental amount of marijuana;

4.8.2 Cultivate up to 6 marijuana plants if the registered patient elects to cultivate marijuana;

4.8.2.1 When a registered patient elects to cultivate marijuana, the patient may not designate a registered primary caregiver or registered dispensary to cultivate marijuana on the patient's behalf;

4.8.3 Possess marijuana paraphernalia;

4.8.4 Furnish or offer to furnish to another registered patient for that registered patient's medical use of marijuana up to 2 ½ ounces of prepared marijuana if nothing of value is offered or transferred in return;

4.8.4.1 The patient who is furnishing the prepared marijuana to another registered patient is prohibited from cultivating more than the allowed

number of plants as designated in Section 4.8.2 of these rules unless the patient is registered as the other patient's primary caregiver.

4.8.5 Designate one primary caregiver. A person, a hospice provider, or a nursing facility may be a primary caregiver.

4.8.5.1 A minor patient's parent, legal guardian or the person who has legal custody of the minor must serve as the minor's primary caregiver. In addition, a registered patient under 18 years of age may have a second primary caregiver. The minor's second primary caregiver may be a person, a hospice provider or a nursing facility.

4.8.5.2 An incapacitated adult patient's legal guardian or durable health care power of attorney must serve as the incapacitated adult's primary caregiver. In addition, an incapacitated adult patient may have a second primary caregiver. The incapacitated adult's second primary caregiver may be a person, a hospice provider or a nursing facility.

4.8.6 If the registered patient does not elect to cultivate his or her own marijuana, then the patient may designate either his/her registered primary caregiver or a registered dispensary to cultivate marijuana for the patient's medical use.

4.8.6.1 Provider or facility may not cultivate. A hospice provider or a nursing facility that is named as a primary caregiver by a registered patient and the staff of the provider or facility who assist the registered patient with the medical use of marijuana may not be designated to cultivate marijuana for the patient.

4.8.7 Be in the presence or vicinity of the medical use of marijuana and assist any registered patient with using or administering marijuana.

4.9 Patient cultivation of marijuana. A registered patient who elects to cultivate marijuana plants must keep the plants in an enclosed, locked facility unless the plants are being transported because the patient is moving or taking the plants to the patient's own property in order to cultivate them.

Section 5. REGISTERED PRIMARY CAREGIVER

5.1 Primary caregiver designated by patient. A patient may designate one primary caregiver to assist the qualifying patient with the patient's medical use of marijuana.

5.1.1 Patient's sole preference. A patient's primary caregiver is determined solely by the patient's preference as named on the patient's application for a registry identification card.

5.1.1.1 Exception: minor patient. A minor patient's parent, legal guardian, or person having legal custody of the minor must serve as one of the primary caregivers for a minor patient. In addition, a registered patient under 18 years of age may have a second primary caregiver. The minor's second primary caregiver may be a person, a hospice provider or a nursing facility.

5.1.1.2 Exception: incapacitated adult patient. An incapacitated adult patient's legal guardian or durable health care power of attorney must serve as the incapacitated adult's primary caregiver. In addition, an incapacitated adult patient may have a second primary caregiver. The incapacitated adult's second primary caregiver may be a person, a hospice provider or a nursing facility.

5.1.2 Hospice provider or nursing facility: primary caregiver. A registered patient may name a hospice provider licensed under 22 Maine Revised Statutes, chapter 1681 or a nursing facility licensed under 22 Maine Revised Statutes, chapter 405 to serve as a registered primary caregiver.

5.1.2.1 Provider or facility registration application. If a hospice provider or nursing facility is named as a primary caregiver, the provider or facility must complete the department's registration process and the staff of the provider or facility who assist the registered patient with the medical use of marijuana must obtain registry identification cards.

5.1.2.2 Staff registry identification cards. To be issued a registry identification card, a staff person of a hospice provider or nursing facility that has been named as a primary caregiver must be at least 21 years of age and not convicted of a disqualifying drug offense.

5.2 Registry identification card required. Registered primary caregivers and staff of hospice providers and nursing facilities named as primary caregivers are required to possess a valid, department-issued registry identification card prior to assisting a registered patient with the medical use of marijuana.

- 5.3 Food establishment license.** A registered primary caregiver must obtain a food establishment license, pursuant to 22 Maine Revised Statutes section 2167, prior to preparing goods containing marijuana for medical use by a registered patient.
- 5.4 Application: primary caregiver registry identification card.** A primary caregiver named on the qualifying patient's application must submit a completed department-approved primary caregiver application form with the required documentation and the registration fee, if any, (Section 7) for a registry identification card. The application shall include, at a minimum, the following information:
- 5.4.1** Name, address and date of birth of the primary caregiver;
 - 5.4.2** Whether the registered patient, the registered primary caregiver or a registered dispensary shall cultivate marijuana for the registered patient's medical use.
 - 5.4.3** A copy of the primary caregiver's Maine driver's license, or other state-issued photo identification.
- 5.5 Department-issued registry identification card for primary caregiver.** The department shall issue registry identification cards to registered primary caregivers and to staff of hospice providers and nursing facilities named as primary caregivers who assist the registered patient with the medical use of marijuana within 5 business days of the date the department approves a primary caregiver's application or renewal for a registry identification card.
- 5.6 Expiration of registry identification card: primary caregiver.** Registry identification cards issued to primary caregivers expire one year after the date of issuance.
- 5.7 Renewal of registry identification card: primary caregivers.** A registered primary caregiver must submit a completed department-approved renewal form with all required documentation and the renewal fee (Section 7).
- 5.7.1** The department shall issue the primary caregiver's new registry identification card within 5 business days of the date the department approves the renewal application.

PRIMARY CAREGIVER'S AUTHORIZED CONDUCT

- 5.8 Authorized conduct: registered primary caregiver.** Subject to the provisions of Section 2.2 of these rules, a designated registered primary caregiver for the purpose of assisting a registered patient may:
- 5.8.1** Possess up to 2 ½ ounces of prepared marijuana and may also legally possess an incidental amount of marijuana for each registered patient who has named the person to serve as a primary caregiver and

- 5.8.2** Cultivate up to 6 marijuana plants for each registered patient who has designated the primary caregiver to cultivate marijuana on the registered patient's behalf;
 - 5.8.2.1** The registered primary caregiver may not cultivate marijuana for a patient unless the patient has designated the primary caregiver for that purpose, and
 - 5.8.2.2** The patient has not designated a registered dispensary to cultivate marijuana for the patient's medical use;
- 5.8.3** Assist no more than 5 registered patient at any one time with their medical use of marijuana;
- 5.8.4** Receive reasonable monetary compensation for costs associated with assisting a registered patient who named the primary caregiver on the patient's application for a registry identification card;
- 5.8.5** Receive reasonable monetary compensation for costs associated with cultivating marijuana for a registered patient who designated the primary caregiver to cultivate marijuana on the patient's application for a registry identification card;
- 5.8.6** Be in the presence or vicinity of the medical use of marijuana and assist any registered patient with the medical use or administration of marijuana; and
- 5.8.7** Prepare goods containing marijuana for medical use by a registered patient if the registered primary caregiver preparing the goods has obtained a food establishment license.
- 5.9 Primary caregiver cultivation of marijuana.** A primary caregiver who has been designated by a registered patient to cultivate marijuana for the patient's medical use must keep all plants in an enclosed, locked facility unless the plants are being transported because the primary caregiver is moving or taking the plants to the primary caregiver's own property in order to cultivate them.
- 5.10 Onsite assessment when cultivating for 3, 4 or 5 patients.** Prior to the department's onsite assessment of a registered primary caregiver who is designated to cultivate marijuana by 3, 4, or 5 patients at any one time, the department shall provide a 24-hour notice to the registered primary caregiver.

Section 6. DISPENSARY CERTIFICATE OF REGISTRATION

6.1 Limitation on number of dispensaries. The department may not issue more than one certificate of registration for a dispensary in any of the 8 Public Health Districts of the department. The eight Public Health Districts are: York District 1 (York County); Cumberland District 2 (Cumberland County); Western District 3 (Androscoggin, Franklin, and Oxford Counties); Midcoast District 4 (Waldo, Lincoln, Knox, Sagadahoc Counties); Central Maine District 5 (Somerset and Kennebec Counties); Penquis District 6 (Penobscot and Piscataquis Counties); Downeast District 7 (Washington and Hancock Counties); and Aroostook District 8 (Aroostook County).

6.1.1 Selection process. The department shall publish a notice of open application for dispensary certificates of registration that includes the application requirements. Notices will appear, at a minimum, in the Kennebec Journal and at www.maine.gov/dhhs/dlrs. Applicants may apply for one or more districts, but must designate which districts they apply for. The notice will contain the deadline for receipt of applications and the process for obtaining application material.

6.1.2 Award decisions. A panel shall be convened by the department to evaluate and score each application. The maximum point value is based on the quality of the applicant's submission. The maximum points for each criterion are indicated in Section 6.1.4 of these rules. To be considered responsive, an application must have at least 70 points. The panel shall set forth through consensus comments the basis of the scoring decision for each criterion. A certificate of registration shall be issued in response to the application in each public health district with the highest score, as long as the application meets all criteria and the minimum score. In case of a tie, the panel reserves the right to seek supplemental information through written questions of the applicants and to raise or lower the applicants' scores based upon the supplemental information.

6.1.3 Application fee. Applicants must submit an application fee of \$15,000 for each district dispensary included in the application for the application to be considered by the panel. Unsuccessful applicants are assessed a \$1,000 fee, and refunded \$14,000. Thereafter, application fees shall be non-refundable.

6.1.4 Selection criteria. Each application shall address all criteria and measures, even when no point values are assigned. Failure to address all of the criteria and measures will result in the application being considered non-responsive and not accepted for review.

6.1.4.1 Criterion 1: Submission of Required Information Regarding Applicant and Facility (up to 25 points)

Measure 1: The applicant shall provide the legal name of the corporation, a copy of the articles of incorporation and by-laws of the corporation. [no points assigned]

Measure 2: The applicant shall provide the proposed physical address(s) of the dispensary and up to one site where marijuana may be grown, if a precise address has been determined. [no points assigned]

- ✓ For each proposed physical address, provide legally binding evidence of site control sufficient to enable the applicant to use and possess the subject property.
- ✓ If the applicant indicated that a precise address has not been determined, the applicant has at least identified the general location(s) where the facilities will be sited, and when.

Measure 3: The applicant shall provide evidence of compliance with local codes and ordinances for each physical address which will be used for dispensing and growing marijuana under the MMMP, and that neither location is within five hundred (500) feet of a preexisting public or private school boundary. [no points assigned]

Measure 4: The applicant shall describe the enclosed, locked facility that will be used in the growing and cultivation of marijuana, its security measures, as required in the rules, and whether it is visible from the street or other public areas. [up to 5 points]

Measure 5: The applicant shall provide the name, address and date of birth of each principal officer and board member of the dispensary, along with a photocopy of their Maine driver's license or other state-issued identification card. [no points assigned]

Measure 6: The applicant shall provide a list of all persons or business entities having direct or indirect authority over the management or policies of the dispensary, and a list of all persons or business entities having 5% or more ownership in the dispensary, whether or not the interest is in the land or buildings, including owners of any business entity which owns all or part of the land or building. [no points assigned]

Measure 7: The applicant shall provide the identity of any creditor holding a security interest in the premises, if any. [no points assigned]

Measure 8: The application shall include the required signed cover letter, and the completed application form supplied by the department. [no points assigned]

Measure 9: The applicant shall describe how the dispensary will operate on a long-term basis as a non-profit organization and a business plan that includes, at a minimum, the following: [up to 20 points]

- ✓ A detailed description about the amount and source of the equity and debt commitment for the proposed dispensary that

demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs; and the financial capability to undertake the project.

- ✓ A copy of the proposed policy regarding services to registered patients who cannot afford to purchase marijuana for medical purposes.
- ✓ The application indicates whether or not the applicant will accept unused excess marijuana from registered patients or caregivers, the process for assuring that the marijuana is not adulterated (how it will be tested) and how it will be redistributed (cannot be sold) to those registered patients who cannot afford marijuana for medical purposes.
- ✓ Projected income statements for the first three (3) years after implementation (forms to be supplied by the department).

6.1.4.2 Criterion 2: Overall Health Needs of Registered Patients and Safety of the Public [up to 75 points]

Measure 1: The applicant demonstrates their proposed location will be convenient for registered patients and caregivers. [up to 10 points]

Measure 2: The applicant demonstrates a steady supply of marijuana for medical use will be available to the projected number of registered patients. [up to 10 points]

- ✓ There is a start-up timetable which provides an estimated time from registration of the dispensary to full operation, and the assumptions used for the basis of those estimates.
- ✓ The applicant shall demonstrate knowledge of organic growing methods to be used in their growing and cultivation of marijuana.
- ✓ The applicant shall demonstrate that steps will be taken to ensure the quality of the marijuana, including purity and consistency of dose.
- ✓ The applicant discloses the various strains of marijuana to be dispensed, and the form(s) in which marijuana will be dispensed.

Measure 3: The applicant demonstrates experience running a non-profit organization or other business. [up to 10 points]

Measure 4: The applicant demonstrates that its plan for record keeping, inventory, quality control and security and other policies and procedures will discourage unlawful activity. [up to 20 points]

Measure 5: The applicant fully describes a staffing plan that will provide accessible business hours, safe growing and cultivation, and

maintenance of confidential information regarding grow sites and the identity of patient information. [up to 20 points]

Measure 6: The application indicates consent to pay for state and federal background checks for all proposed and future registry card holders. [no points assigned]

Measure 7: The application reflects a strong patient education component. [up to 5 points]

6.1.5 Final agency action. The award decision shall be made in writing to the successful applicants. Written notice of denial of an application (non-selection) is considered final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

6.1.5.1 Record. The record for review is the applications and any attached supporting documents, any other documents relied upon by members of the scoring panel in its decision, consensus comments of the panel, notices of denial and acceptance, and any other written communications between the department and the applicants related to the decision.

6.2 Certificate of registration required. No person shall operate a dispensary for marijuana for medical use without a department-issued certificate of registration.

6.3 Certificate of registration nontransferable. The certificate of registration issued by the department to a dispensary is nontransferable.

6.4 Not-for-profit corporation. Dispensaries are required to incorporate pursuant to Title 13-B, Maine Revised Statutes and to maintain the corporation in good standing with the Secretary of State. The dispensary must operate on a not-for-profit basis for the mutual benefit of registered patients who have designated the dispensary to cultivate marijuana.

6.4.1 The bylaws of the dispensary and its contracts with registered patients must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its not-for-profit status.

6.4.2 A dispensary is not required to be a tax-exempt organization under 26 United States Code, Section 501(c)(3).

6.5 Location of dispensary. A dispensary may not locate within 500 feet of the property line of a preexisting public or private school.

6.6 Local regulation of dispensary. These rules do not prohibit a political subdivision of this State from limiting the number of registered dispensaries that may operate in the

political subdivision or from enacting reasonable regulations applicable to registered dispensaries.

6.7 Food establishment license. A registered dispensary must obtain a food establishment license, pursuant to 22 Maine Revised Statutes section 2167, prior to preparing goods containing marijuana for medical use by a registered patient.

6.8 Application: dispensary certificate of registration. A dispensary must submit a completed department-approved application form with all required documentation and the required fees (Section 7). The dispensary application must include, at a minimum:

6.8.1 The legal name of the dispensary;

6.8.2 The physical address of the dispensary and the physical address of a maximum of one additional location, if any, where marijuana will be cultivated for registered patients who have designated the dispensary to cultivate marijuana for them;

6.8.3 The distance to the closest school from the dispensary;

6.8.4 A copy of the dispensary's articles of incorporation and bylaws, and evidence that the corporation is in good standing with the Secretary of State;

6.8.5 The name, address and date of birth of each principal officer and board member of the dispensary;

6.8.6 The name, address and date of birth of any person who is employed by the dispensary;

6.8.7 A copy of the dispensary's policies and procedures;

6.8.8 A copy of the dispensary's liability insurance policy;

6.8.9 A business plan demonstrating the on-going viability as a non-profit organization; and

6.8.10 Narrative describing how the applicant will meet all the criteria in 6.1.4.1 and 6.1.4.2.

6.9 Department determination. Subject to the limitations on the number and location of dispensaries (Section 6.1), within 30 calendar days of receipt of a completed application form with a score of at least 70 points and with all required documents and required fees, the department shall register a dispensary and issue a certificate of registration to any person or entity that complies with the certificate of registration requirements set out in these rules and has the highest number of points of the applicants for the district.

- 6.10 Expiration of dispensary certificate of registration.** A dispensary's certificate of registration expires one year after the date of issuance.
- 6.11 Renewal of dispensary certificate of registration.** The department shall renew a dispensary's certificate of registration within 10 business days in compliance with the following:
- 6.11.1** A registered dispensary must submit a completed department-approved renewal of certificate of registration form with all required documentation and the required fees (Section 7).
 - 6.11.2** When requesting a renewal of the certificate of registration, registered dispensaries must update as needed all information submitted by the dispensary on its application for a certificate of registration pursuant to Section 6 of these rules.
 - 6.11.3** Failure to provide all current up-to-date information is grounds for denial of the renewal.

DISPENSARY'S AUTHORIZED CONDUCT

- 6.12 Authorized conduct: registered dispensary.** A registered dispensary is selected by a patient based solely by the patient's preference as indicated on the patient's application for a registry identification card. For the purpose of assisting a registered patient who has designated a registered dispensary to cultivate marijuana for the patient's medical use, a registered dispensary may:
- 6.12.1** Possess up to 2 ½ ounces of prepared marijuana and may also lawfully possess an incidental amount of marijuana for each patient who has designated the registered dispensary to assist the patient with the medical use of marijuana.
 - 6.12.2** Cultivate up to 6 marijuana plants for each registered patient who has designated the registered dispensary to cultivate the plants on the patient's behalf.
 - 6.12.3** Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana for a patient who designated the dispensary.
 - 6.12.4** Assist any patient who designated the registered dispensary to cultivate marijuana for the medical use or administration of marijuana.
- 6.13 Maximum amount of marijuana dispensed during 15-day period.** No more than 2 ½ ounces of prepared marijuana may be dispensed to a registered patient or to a registered primary caregiver on behalf of a registered patient during a 15-day period.

6.14 Dispensary cultivation of marijuana. All cultivation of marijuana must take place in an enclosed, locked facility unless the plants or paraphernalia are being transported between the location of the registered dispensary and the dispensary's one permitted additional location for the cultivation of marijuana, if any.

6.14.1 Access to the enclosed, locked facility is limited to a cardholder who is a principal officer, board member, or employee of a registered dispensary when acting in his or her official capacity.

6.15 Notice of dispensary designation. The department shall maintain a list of dispensaries and the registered patients who have designated each dispensary to cultivate marijuana for the patient's medical use.

6.15.1 The department shall notify in writing each registered dispensary when a registered patient designates the registered dispensary to cultivate marijuana for the patient's medical use.

6.15.2 A dispensary shall receive a written department notification update each time a registered patient ceases to designate the dispensary.

6.15.3 The department's notification of dispensaries may be transmitted electronically.

REGISTRY IDENTIFICATION CARDS

6.16 Dispensary registry identification cards required. The department shall issue each qualified principal officer, board member, and employee of a registered dispensary a registry identification card within 10 business days of the date the department received the completed department-approved application form with required documents including a copy of a Maine driver's license or other state-issued photo identification, and the required fees (Section 7). No principal officer, board member or employee may begin working at the registered dispensary before he/she is issued a registry identification card. The registered dispensary must surrender to the department any registry identification card that is no longer eligible for valid use.

6.16.1 Notice to department when employment or affiliation ceased. The registered dispensary must notify the department within 10 business days of the date that a principal officer, board member or employee ceases to work at or be affiliated with the registered dispensary.

6.16.2 Card expires after notice to department when employment or affiliation ceased. The registry identification card of a principal officer, board member or employee expires 10 business days after the registered dispensary notifies the department that the person ceases to work at or be affiliated with the registered dispensary.

- 6.16.3 Dispensary action after repeat positive test result.** The registered dispensary must require a principal officer, board member or employee to turn over his/her registry identification card if that person has confirmed positive results from two lawfully administered substance abuse tests within 12 months.
- 6.17 Expiration of dispensary registry identification cards.** Registry identification cards issued to dispensary principal officers, board members and employees expire one year after the date of issuance.
- 6.18 Annual renewal required.** A registered dispensary must submit a completed department-approved renewal application form with all required documentation and the renewal fee (Section 7) for the renewal of each dispensary registry identification card for each principal officer, board member and employee of the registered dispensary.
- 6.18.1** The department shall make a decision and issue renewal cards for approved applicants within 10 business days of receipt of the completed renewal application.
- 6.18.2 Denial of renewal.** The department shall notify the registered dispensary in writing of the reason for denying renewal of a registry identification card.
- 6.19 Background checks.** The department shall conduct background checks of each principal officer, board member and employee of registered dispensaries. Updated background checks shall be conducted annually at the time of renewal. Background checks shall be conducted in each state where the individual has resided since the age of 18.
- 6.20 Disqualifying drug conviction.** The department may not issue or renew a registry identification card to any principal officer, board member, agent or employee of a dispensary who has been convicted of a disqualifying drug offense in Maine or another jurisdiction.
- 6.21 Conviction: may not be employed or affiliated with a dispensary.** Any person who has been convicted of a disqualifying drug offense may not be a principal officer, board member or employee of a registered dispensary.

INSPECTION, SECURITY AND OPERATION

- 6.22 Inspections.** A registered dispensary, and the one permitted additional location for the cultivation of marijuana, if any, is subject to inspection by the department.
- 6.22.1** The department may enter without notice to carry out an inspection in accordance with these rules.
- 6.22.2** Submission of an application for a dispensary certificate of registration constitutes permission for entry and inspection of the dispensary.

6.22.3 Failure to cooperate with required inspections may be grounds to revoke the dispensary's certificate of registration, as set forth in Section 10 of these rules.

6.22.4 During an inspection, the department may identify violations of these rules. The dispensary shall receive written notice of the nature of the violations. The dispensary shall notify the department in writing with a postmark date within twenty (20) business days of the date of the notice of violations identifying the corrective actions taken and the date of the correction.

6.23 Dispensary security: protections of premises and persons. Registered dispensaries must implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana at the registered dispensary and the one permitted additional location for the cultivation of marijuana, if any. Security measures to protect the premises, registered patients, registered caregivers, and principal officers, board members and employees of the registered dispensary must include but are not limited to the following:

6.23.1 On-site parking must be provided.

6.23.2 Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance, but must not disturb neighbors.

6.23.3 Devices or a series of devices, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device to detect an unauthorized intrusion.

6.23.4 The interior must be equipped with electronic monitoring, video cameras, and panic buttons.

6.23.5 Registered dispensaries must consistently and systematically prevent loitering.

6.24 Dispensary policies, procedures and records. The operating documents of a registered dispensary must include procedures for the oversight of the registered dispensary and procedures to ensure accurate record keeping. The records must be available for inspection by the department, upon request. Dispensary records subject to inspection include but are not limited to:

6.24.1 Personnel policies and practices. The registered dispensary must have written policies and practices that are available to the department upon request.

6.24.2 Residency requirement policy. All principal officers and board members of a registered dispensary must be residents of the State of Maine.

6.24.2.1 Documentation of current state residency shall be maintained in the personnel files of principal officers and board members and shall include, but not be limited to, a copy of a Maine driver's license or other state-issued photo identification and physical home address (not mailing address) in Maine.

6.24.3 Job description and employment contract policies. The policy regarding job descriptions and employment contracts shall include duties, authority, responsibilities, qualifications, supervision, training in, and adherence to, confidentiality requirements, periodic performance evaluations and disciplinary actions.

6.24.4 Business records. Registered dispensaries must maintain business records including manual or computerized records of assets and liabilities, monetary transactions, various journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers which the dispensary keeps as its books of accounts.

6.24.4.1 Sales record. Business records include the sales record that indicates the name of the registered patient or registered caregiver to whom marijuana has been distributed, including the quantity and form. The sales record must indicate the cost of the product.

6.24.5 Patient education. Dispensary policies must include a provision that requires dispensaries to provide educational materials about marijuana to registered patients and their registered primary caregivers. Each dispensary must have an adequate supply of up-to-date education material available for distribution. Educational materials must be available for inspection by the department upon request. The educational material must include at least information about the following:

6.24.5.1 Strains of marijuana have different effects, as do various forms and route of administration. Dispensaries must have educational materials available to assist in the selection of prepared marijuana. Dispensaries shall provide "tracking sheets" to registered patients and registered primary caregivers who request them to keep track of the strains used and their effects.

6.24.5.2 How to achieve proper dosage for different modes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained.

6.24.5.3 Information on tolerance, dependence and withdrawal must be provided. Dispensaries are not required to continue to furnish

marijuana for medical purposes if it is believed that a registered patient or primary caregiver is abusing marijuana or other substances.

6.24.5.4 Information regarding substance abuse signs and symptoms must be available, as well as referral information.

6.24.5.5 Information on whether the dispensary's marijuana and associated products meet organic certification standards.

6.24.6 Personnel Files. The registered dispensary must maintain a confidential personnel file on each principal officer, board member and employee. The personnel files shall include at least the following information:

6.24.6.1 Documentation of state residency for each principal officer and board member.

6.24.6.2 Copy of current dispensary registry identification card and copy of a Maine driver's license or other state-issued photo identification card.

6.24.6.3 Employment application and required documentation.

6.24.6.4 Documented verification of references.

6.24.6.5 Documentation of background checks.

6.24.6.6 Job description or employment contract.

6.24.6.7 Documentation of training, including training regarding confidentiality requirements.

6.24.6.8 Documentation of periodic performance evaluations.

6.24.6.9 Documentation of disciplinary actions.

6.24.6.10 Documented results of drug tests.

6.24.7 Alcohol and drug-free workplace policy. The registered dispensary must have and adhere to a written alcohol and drug-free workplace policy. The policy must be available to the department upon request. The policy must include at least the following provisions:

6.24.7.1 Applicants: substance abuse testing. Applicants who have been offered employment by the registered dispensary must submit to a substance abuse test. The offer of employment must be conditioned

on the applicant receiving a negative test result. Substance abuse testing must comply with 26 M.R.S.A. Chapter 7, Subchapter 3-A.

6.24.7.2 Employees: substance abuse testing. The registered dispensary must have a policy providing for probable cause substance abuse testing consistent with 26 M.R.S.A. Chapter 7, Subchapter 3-A.

6.24.7.3 Testing for specific substances of abuse. Subject to the limitations in Sections 6.26.7.1 and 6.26.7.2, the registered dispensary shall request a report disclosing the presence or absence of at least the following specific substances of abuse:

6.24.7.3.1 Marijuana (grass, pot, weed, hash, joint, Acapulco gold).

6.24.7.3.2 Cocaine (coke, crack, snow, blow, flake, “C”, rock, base).

6.24.7.3.3 Opiates – opium and codeine derivatives (heroin, horse, “H”, junk, smack, scag, Miss Emma).

6.24.7.3.4 Amphetamines – amphetamines and methamphetamines (uppers, speed, bennies, black beauties, Christmas trees, crystal, mollies, crank, BAM, dexies).

6.24.7.3.5 Phencyclidine – PCP (angel dust, peace pill, hog, supergrass, embalming fluid, rocket fuel, killer weed).

6.24.7.4 Notify department: failed drug test. The registered dispensary must notify the department within one business day of receipt of a confirmed positive result to a lawfully administered substance abuse test.

6.24.7.5 Repeat failure of drug test. The department shall refuse to issue or renew a registry identification card to a person who within the 12 months prior to the date of application has had a confirmed positive result to a lawfully administered substance abuse test that occurred within 12 months of another confirmed positive result. This does not apply if that individual failed the drug test solely because of the presence of marijuana in the confirmed positive test result and that person is a registered patient.

6.24.7.6 Employee assistance program. Subject to the testing limitations in Sections 6.26.7.1 and 6.26.7.2, and to provide opportunities to assist an employee with a substance abuse problem, the registered

dispensary must have a contract with an approved Maine employee assistance program (EAP).

6.24.8 Record of disposal of marijuana. The registered dispensary must create and maintain records of the disposal of marijuana that is not distributed by the dispensary.

6.24.9 Record of current patients. The registered dispensary must keep on file and available for department inspection, upon request, a copy of each current patient's registry identification card and a Maine driver's license or other state-issued photo identification. Files must be updated upon receipt of department notifications of dispensary designation (See Section 6.15).

DISPENSARY PROHIBITIONS

6.25 Dispensary prohibitions. The following prohibitions apply to registered dispensaries:

6.25.1 A registered dispensary may not possess more than 6 live marijuana plants for each registered patient who has designated the registered dispensary to cultivate marijuana for the registered patient's medical use.

6.25.2 A registered dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a registered patient who has designated the dispensary to cultivate marijuana for the registered patient or to the patient's registered primary caregiver.

6.25.3 A registered dispensary may not acquire prepared marijuana or marijuana plants except through the cultivation of marijuana by that dispensary either at the location of the dispensary or at the dispensary's one permitted additional location for the cultivation of marijuana, if any.

6.25.4 A registered dispensary may not contract for the cultivation of seeds, seedlings or small plants or the cultivation, production or preparation of marijuana or goods containing marijuana for medical use.

6.25.5 A registered dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered patients who have designated the dispensary to cultivate marijuana for them with the medical use of marijuana directly or through the registered patients' primary caregivers.

6.26 Inventory. A registered dispensary is authorized to have six (6) live marijuana plants per registered patient.

- 6.26.1** In addition to the six (6) live marijuana plants per registered patient, the registered dispensary may have cultivated plants in varying stages of processing in order to ensure that the dispensary is able to meet the needs of its registered patients.
- 6.26.2** During the first sixty (60) days after start-up, a registered dispensary may have twelve (12) marijuana live plants and others in various stages of cultivation without having any registered patients in order to build initial inventory.
- 6.26.3** When there is a decrease in the number of patients who have designated the dispensary to cultivate marijuana, the dispensary shall have 10 business days to adjust the inventory to meet the requirements of Section 6.24.
- 6.27 Daily inventory.** Prepared marijuana must be kept under double lock and inventoried daily by two cardholders.
- 6.28 Dispensing inventory.** Quantities of prepared marijuana must be weighed, logged in and signed out by two cardholders when dispensed.
- 6.29 Trip tickets.** Distributions of marijuana for medical use to a registered patient or a registered caregiver for use by a registered patient must be labeled with a trip ticket to identify the dispensary, the MMMP patient number, the product, the amount and form, the time and date of origin, and destination of the product.
- 6.29.1** Registered caregivers shall take reasonable steps to deliver the product directly to the registered patient as a safety precaution and to alleviate concerns about drug diversion.
- 6.30 Cleaning, sorting, grading, weighing and packaging marijuana.** Registered dispensaries shall comply with the standards set forth in 22 Maine Revised Statutes, chapter 551, subchapter 1 for the process of cleaning, sorting, grading, weighing and packaging marijuana for medical use.
- 6.31 Quality control.** To ensure the safety of registered patients, the registered dispensary shall provide samples to the department during announced and unannounced inspections for product quality control.
- 6.31.1 Sample collection and labeling.** During an inspection of the registered dispensary, the department shall
- 6.31.1.1** Collect soil and plant samples, and samples of products containing marijuana prepared at the dispensary;
- 6.31.1.2** Place the dispensary's registration number on each sample container;

6.31.1.3 Label the sample containers with the description and quantity of its content;

6.31.1.4 Seal sample containers; and

6.31.1.5 Have dispensary and department staff initial each sample container.

6.31.2 Chain of custody of samples. Chain of custody documentation shall be maintained by the department.

6.31.2.1 The department shall provide a receipt for the collected samples to the dispensary's representative.

6.31.2.2 The department shall maintain an accounting of all collected sample containers for control purposes.

6.31.3 Sample testing. The department shall test samples for at least pests, mold, mildew, heavy metals and the presence of pesticides. Written results shall be reported to the dispensaries.

6.32 No pesticide use. There are no pesticides authorized for use on marijuana, and unauthorized application of pesticides is unlawful.

6.33 Organic certification. Marijuana for medical use may be labeled "organic" if the registered dispensary is certified as being in compliance with the United States Department of Agriculture certification requirements applying to organic products.

6.34 Incident reporting. A registered dispensary must submit a department-approved incident report form on the next business day after it discovers a violation of the requirements set out in these rules regarding the operation of dispensaries. The report must indicate the nature of the breach and the corrective actions taken by the dispensary.

6.34.1 For the purposes of these rules, an incident includes:

6.34.1.1 Confidential information accessed or disclosed in violation of these rules;

6.34.1.2 Loss of inventory by theft or diversion;

6.34.1.3 Intrusion of the dispensary or the one permitted additional location, if any; and

6.34.1.4 Any other violations of these rules governing operation of the dispensary.

- 6.35 Illegal activity reporting.** Any suspected illegal activity involving dispensary operations must be reported to law enforcement by the dispensary.

PROPOSED

Section 7. FEES

7.1 Fees. All fees are nonrefundable and payable to the *Treasurer, State of Maine*.

7.2 Registered patient fees.

7.2.1 Application fee. The patient application fee of \$100 must be submitted with the completed application for a registry identification card.

7.2.1.1 A patient applicant who is a MaineCare member must submit an application fee of \$75 with the completed application for a registry identification card.

7.2.2 Renewal fee. The patient renewal fee of \$100 must be submitted annually with the completed renewal form for a registry identification card.

7.2.2.1 A patient who is a MaineCare member must submit an annual renewal fee of \$75 with the completed renewal form for a registry identification card.

7.3 Registered primary caregiver fees.

7.3.1 Application fee: cultivation. The primary caregiver designated to cultivate marijuana must submit an application fee of \$300 per patient with the completed application for a registry identification card.

7.3.2 No application fee: no cultivation. No application or renewal fee is charged for a registry identification card when primary caregivers do not cultivate marijuana.

7.3.3 Renewal fee: cultivation. The primary caregiver designated to cultivate marijuana must submit an annual renewal fee of \$300 per patient with the completed renewal form for a registry identification card.

7.3.4 No renewal fee: no cultivation. No renewal fee is charged for a registry identification card when primary caregivers do not cultivate marijuana.

7.4 Registered dispensary fees.

7.4.1 Certificate of registration application fee. The \$15,000 registration fee must be submitted with the dispensary's completed certificate of registration application.

7.4.2 Registration renewal fee. The \$15,000 registration renewal fee must be submitted annually with the dispensary's completed registration renewal form.

- 7.4.3 Identification card fee.** The registered dispensary shall be assessed a \$25 fee for each registry identification card issued for each principal officer, board member, and employee of the registered dispensary.
- 7.4.4 Identification card renewal fee.** The registered dispensary shall be assessed a \$25 fee for the annual renewal of each registry identification card issued for each principal officer, board member, and employee of the registered dispensary.
- 7.4.5 Background check fee.** The registered dispensary shall be assessed a fee by the Department of Public Safety for the cost of criminal background checks for each principal officer, board member, and employee of the registered dispensary.
- 7.4.6 Change of location fee.** A registered dispensary that changes its physical location is required to submit a completed department-approved change in location form to secure a new certificate of registration and shall be assessed a fee of \$5,000 for each change of physical location.
- 7.5 Processing fee: reissued card.** A processing fee of \$10 shall be charged to registered patients, registered primary caregivers and registered dispensaries for reissuing a lost card or a card reissued by the department due to changes regarding the information on the registry identification card, such as an address change or change in primary caregiver.
- 7.6 Laboratory testing fees.** Registered dispensaries are responsible for the cost of laboratory testing of marijuana that is required by these rules.

Section 8. REGISTRY IDENTIFICATION CARD

- 8.1 Card required.** Registered patients, registered primary caregivers, principal officers, board members, and employees of registered dispensaries, and staff of hospice providers and nursing facilities named as primary caregivers, must possess a valid registry identification card issued by the department. A registry identification card is only valid in combination with a current Maine driver's license or other state-issued photo identification.
- 8.2 Department determination.** The department shall verify the information contained in an application for or renewal of a registry identification card and shall approve or deny an application for or renewal of a registry identification card to those who qualify in accordance with Section 4, Section 5, or Section 6 of these rules. The department determination shall be made within 30 calendar days of the date the department received the completed application for or renewal with all required documents and the registration fee (Section 7).
- 8.2.1 Expedited determination: hospice.** After verifying the information, the department shall approve or deny an application for or renewal of a registry identification card submitted by a qualifying patient of a hospice provider. If approved, the department shall issue the card within 5 business days of the department's determination.
- 8.3 Issuance of cards.** The department shall issue registry identification cards to registered patients, registered primary caregivers, to staff of hospice providers and nursing facilities named as primary caregivers who assist the patient with the medical use of marijuana, and to a dispensary's principal officers, board members and employees within 5 business days of approving an application for or renewal of a registry identification card.
- 8.4 Information on registry identification card.** Registry identification cards must contain the required information in compliance with the following provisions.
- 8.4.1 Patient registry identification card.** Each issued patient registry identification card must contain, at a minimum, the following information:
- 8.4.1.1** The name, address and date of birth of the registered patient;
 - 8.4.1.2** A random MMMP identification number that is unique to the cardholder;
 - 8.4.1.3** The date issued and the expiration date of the registry identification card;
 - 8.4.1.4** The name, address and date of birth of each registered primary caregiver, if any, of the patient;

8.4.2 Primary caregiver registry identification card. Each card issued to a registered primary caregiver and to staff of hospice providers and nursing facilities named as primary caregivers who assist patients with the medical use of marijuana must contain, at a minimum, the following information:

- 8.4.2.1** The name, address and date of birth of the registered primary caregiver;
- 8.4.2.2** The random MMMP identification number that is unique to the cardholder;
- 8.4.2.3** The date of issuance and expiration date of the registry identification card;
- 8.4.2.4** A clear designation showing whether the cardholder is designated pursuant to these rules to cultivate marijuana plants for the registered patient's medical use; and
- 8.4.2.5** The MMMP number of the registered patient who shall be assisted by the primary caregiver.

8.4.3 Dispensary registry identification cards. Each registry identification card issued to a dispensary principal officer, board member or employee must contain, at a minimum, the following information:

- 8.4.3.1** The card must specify that the cardholder is a principal officer, board member or employee of a registered dispensary;
- 8.4.3.2** The name, address, and date of birth of the principal officer, board member or employee;
- 8.4.3.3** The legal name of the registered dispensary with which the principal officer, board member or employee is affiliated.
- 8.4.3.4** The random MMMP identification number that is unique to the cardholder; and
- 8.4.3.5** The date of issuance and expiration date of the registry identification card.

8.5 Expired card. Registry identification cards expire no more than one year after the date of issuance.

8.6 Annual renewal of card. At least thirty (30) calendar days before a card expires, the cardholder must submit a completed department-approved renewal form with all required documentation and the renewal fee (Section 7).

8.7 Loss of card or change in status of cardholder: department notification. Cardholders must notify the department within 10 business days of the following occurrences.

8.7.1 Loss of card.

8.7.2 Change in cardholder's status. The department must be notified when the following status changes occur:

8.7.2.1 Registered patient's status change:

8.7.2.1.1 Name change;

8.7.2.1.2 Address change;

8.7.2.1.3 Primary caregiver change;

8.7.2.1.4 Change primary caregiver designated to cultivate marijuana for the registered patient; or

8.7.2.1.5 Patient ceases to have a debilitating medical condition.

8.7.2.2 Registered primary caregiver status change:

8.7.2.2.1 Name change;

8.7.2.2.2 Address change;

8.7.2.2.3 a registered patient no longer designates the primary caregiver; or

8.7.2.2.4 a new patient designated the primary caregiver.

8.7.2.3 Dispensary's principal officer, board member or employee status change:

8.7.2.3.1 Registered dispensaries must notify the department each time a principal officer, board member or employee ceases to work or be affiliated with the registered dispensary.

8.8 New card issued: change in status. The department shall issue the registered patient, registered primary caregiver, or dispensary principal officer, board member or employee a new registry identification card with a new random identification number within 5 business days of receiving the changed status information and the reissuing fee (Section 7).

8.8.1 The registry identification card with outdated information must be surrendered by returning it to the department. It must be received by the department within ten (10) business days of the person's receipt of the new registry identification card. Failure to timely surrender the superseded card to the department may result in the department voiding the newly issued card.

8.9 New principal officers, board members and employees: new card issued. Registered dispensaries must notify the department each time it has a new principal officer, board member or employee and must submit the person's name, address and date of birth along with the required fee for a new registry identification card before the new principal officer, board member, agent or employee begins to work at or affiliate with the registered dispensary.

8.10 De-designated primary caregiver: department notification. The department shall notify the de-designated primary caregiver within ten (10) business days of receipt of the updated information.

8.10.1 The de-designated primary caregiver must surrender the registry identification card by returning it to the department. The card must be received by the department within ten (10) business days of the date of notice.

8.11 Card void: debilitating condition ceases. When the registered patient's certifying physician notifies the department in writing that the registered patient has ceased to suffer from a debilitating medical condition, the patient's registry identification card becomes void 10 days after the date shown on the department's written notice to the patient at his or her last known address.

Section 9. CONFIDENTIALITY

- 9.1 Patients: applications and supporting information.** Applications and supporting information submitted by qualifying and registered patients under these rules, including information regarding their primary caregivers and physicians are confidential.
- 9.2 Primary caregivers and physicians: applications and supporting information.** Applications and supporting information submitted by primary caregivers and physicians operating in compliance with these rules are confidential.
- 9.3 List of cardholders.** The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards.
- 9.3.1** Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, 1 M.R.S.A. Chapter 13, and not subject to disclosure except as provided in these rules and to authorized employees of the department as necessary to perform official duties of the department.
- 9.4 Verification of authenticity of card to law enforcement.** The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.
- 9.5 Dispensaries: applications and other information.** Applications, supporting information and other information regarding a registered dispensary are *not* confidential except that information that is contained within dispensary information that identifies a registered patient, the registered patient's physician and the registered patient's primary caregivers is confidential.
- 9.6 Department records.** Records maintained by the department pursuant to these rules that identify applicants for a registry identification card, registered patients, registered primary caregivers, and registered patient's physicians are confidential and may not be disclosed except:
- 9.6.1** To department employees who are responsible for carrying out these rules;
- 9.6.2** Pursuant to a court order;
- 9.6.3** With the written permission of the patient or the patient's legal guardian, or a parent or person with legal custody if the patient has not attained 18 years of age;
- 9.6.4** As permitted or required for the disclosure of health care information pursuant to 22 Maine Revised Statutes, section 1711-C;

- 9.6.5** To a law enforcement official for law enforcement purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and
- 9.6.6** To a patient's treating physician and to a patient's primary caregiver for the purpose of carrying out these rules.
- 9.7 Not prohibited: physician notification of department.** These rules do not prohibit a physician from notifying the department if the physician acquires information indicating that a registered or qualifying patient is no longer eligible to use marijuana for medical purposes or that a registered or qualifying patient falsified information that was the basis of the physician's certification of eligibility for the medical use of marijuana.
- 9.8 Not prohibited: disclosure to state agencies.** The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified.

Section 10: ENFORCEMENT

DENIAL OF APPLICATION OR RENEWAL OF CARD

10.1 Denial of application. The effective date of denial of an application for a registry identification card is the date shown on the department's written notice to the applicant's last known address. The department may deny an application for a registry identification card based on the following:

10.1.1 The applicant's failure to comply with the application requirements set out in these rules, including the applicant's failure to provide the required information.

10.1.2 The department's determination that the information provided was materially inaccurate or incomplete.

10.2 Denial of renewal. The effective date of denial of a request for renewal of a registry identification card is the date shown on the department's written notice to the cardholder's last known address. The department may deny a cardholder's request for renewal of his or her registry identification card based on the following:

10.2.1 The cardholder's failure to comply with the renewal requirements set out in these rules, including the cardholder's failure to provide the required information.

10.2.2 The department's determination that the information provided was materially inaccurate or incomplete.

10.3 Reapplication. When an application or renewal has been denied, the person may reapply for a registry identification card. The person must demonstrate compliance with these rules, including those provisions that were the basis for the denial, and submit a completed department-approved form, all required documentation and required fees.

REVOCATION OF CARD

10.4 Revocation of registry identification card. The department may revoke a registry identification card.

10.4.1 Effective date of revocation. The effective date of revocation of a registry identification card is 3 days after the date shown on the department's written notice to the cardholder's last known address.

10.4.2 Revoked card: no dispensary employment or affiliation. A principal officer, board member, or employee of a registered dispensary whose card has been revoked by the department is disqualified from serving as a principal officer, board member, or employee of a registered dispensary.

10.5 Grounds for revocation of registry identification card. Grounds for revocation of a registry identification card include the following:

- 10.5.1** The cardholder sells, furnishes, or gives marijuana to a person who is not allowed to possess marijuana for medical purposes in accordance with these rules.
- 10.5.2** The dispensary cardholder is convicted of a disqualifying drug offense.
- 10.5.3** A primary caregiver, or staff of a hospice provider or nursing facility named as a primary caregiver, or a dispensary cardholder knowingly violates the confidentiality of information protected by these rules.
- 10.5.4** A registered dispensary cardholder dispenses, delivers, or otherwise transfers marijuana to a person other than a registered patient who has designated the dispensary to cultivate marijuana; or a registered dispensary cardholder dispenses, delivers, or otherwise transfers marijuana to a person other than a patient's registered primary caregiver.

REVOCATION OF DISPENSARY CERTIFICATE OF REGISTRATION

10.6 Revocation of dispensary certificate. The department may seek a district court order revoking a dispensary's certificate of registration.

- 10.6.1** The date of the revocation is the date designated in the court order or the date appeal rights are exhausted, whichever is later.

10.7 Grounds for revocation of dispensary certificate. Grounds for revocation of a dispensary's certificate of registration include the following:

- 10.7.1** Failure to cooperate with required inspections.
- 10.7.2** Violations of any of these rules that govern the operation of a dispensary.
- 10.7.3** Committing, permitting, aiding or abetting any illegal practices in the operation of the dispensary.
- 10.7.4** Conduct or practices that are detrimental to the safety and welfare of registered patients or registered primary caregivers.
- 10.7.5** Providing information that is materially inaccurate or incomplete.

EMERGENCY SUSPENSION OF DISPENSARY CERTIFICATE

10.8 Emergency suspension of dispensary certificate. The department may suspend a dispensary's certificate of registration on an emergency basis for up to 30 days based upon a threat to the health or physical safety of a person.

10.8.1 Department notice. The department notice of an emergency suspension of the dispensary's certificate shall include the following information:

10.8.1.1 The grounds for the emergency suspension;

10.8.1.2 The length of the emergency suspension;

10.8.1.3 Whether the department intends to seek a district court order revoking the dispensary's certificate of registration; and

10.8.1.4 Any other relevant information.

VOIDING REGISTRY IDENTIFICATION CARD

10.9 Void card is inactive and invalid. A void registry identification card is inactive and no longer valid.

10.10 Grounds. The registry identification card is voided by the department when any of the following occurs:

10.10.1 A new card is issued to a dispensary cardholder based on a change in status, and the superseded card is not surrendered to the department.

10.10.2 A primary caregiver is de-designated by the registered patient and the invalid card is not surrendered to the department.

10.10.3 A person is no longer employed by or affiliated with a dispensary or a hospice provider or nursing facility and the card is not surrendered to the department.

10.10.4 A person within 12 months has confirmed positive results from two lawfully administered substance abuse tests and the card is not surrendered to the department.

10.10.5 A patient's certifying physician notifies the department in writing that the registered patient has ceased to suffer from a debilitating medical condition, and the card is not surrendered to the department.

10.11 Date card is void. The registry identification card is void 10 days after the date shown on the department's written notice to the cardholder and the dispensary, if applicable.

NOTICE OF DEPARTMENT ACTION

10.12 Notice of department action. Prior to taking action against cardholders or dispensaries, the department shall issue a written notice that includes the following information:

10.12.1 Nature of violation. The nature of the violation and the rules violated.

10.12.2 Effective date. The date the department's action takes effect.

10.12.3 Right to appeal. The right to appeal the department's action.

10.13 Final agency action. The department's action is considered final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

10.13.1 Record. The record for review is the department's file for that cardholder or dispensary for the period in question, any other documents relied upon by the department in taking the action, the department's notice of the action, and other communications between the department and the cardholder or dispensary regarding the action.

FINES

10.14 Court ordered fines. The department may seek a court order imposing the following fines:

10.14.1 Failure to notify department of status change. Registered patients and registered primary caregivers who fail to notify the department when there is a status change commit a civil violation for which a fine of not more than \$150 may be adjudged.

10.14.2 Violation of confidentiality. Subject to the provisions in Section 9 of these rules, a person who knowingly violates the confidentiality of information protected by these rules commits a civil violation for which a fine of up to \$1,000 may be imposed.

10.14.2.1 Exception. Section 10.14.2 of the rules does not apply to a physician, or staff of a hospice provider or nursing facility named as a primary caregiver or any other person directly associated with a physician or a hospice provider or nursing facility that provides services to a registered patient.

10.14.3 Dispensary employment or affiliation after conviction. A person who is employed by or is a principal officer or board member of a dispensary after that person has been convicted of a disqualifying drug offense commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

CLASS D CRIME

- 10.15 Repeat convictions: Class D crime.** A person who is employed by or is a principal officer or board member of a dispensary in violation of Section 10.14.3 of these rules and who at the time of the violation has been previously convicted of a disqualifying drug offense, commits a Class D crime.

PROPOSED

Statutory Authority

22 M.R.S.A. Chapter 558-C

22 M.R.S.A. §42

22-A M.R.S.A. §205

PROPOSED